

Attorney's Docket No.: 42390.P7291

PATENT

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Physical Layer and Data Link Interface With Ethernet							
the specification	n of which						
is attached hereto. X was filed on December 23, 1999, as United States Application Number 09/471,200 or PCT International Application Numberand was amended on (if applicable)							
			the contents of the above-ider any amendment referred to a				
		e all information kn al Regulations, Se	nown to me to be material to p ction 1.56.	atentability	as		
foreign applicat any foreign app	ion(s) for patent o	r inventor's certifica or inventor's certifi	, United States Code, Section ate listed below and have also cate having a filing date befor	identified	below		
Prior Foreign Application(s)					Priority <u>Claimed</u>		
Number		Country	Day/Month/Year Filed	Yes	No		
Number	(Country	Day/Month/Year Filed	Yes	No		
Number		Country	Day/Month/Year Filed	Yes	No		
	he benefit under T lication(s) listed be		tes Code, Section 119(e) of a	ny United S	States		
Application N	umber	Filing Date					
Application Number		Filing Date					

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application(s) listed below and is not disclosed in the prior Un of Title 35, United States Code known to me to be material to	, insofar as the subject mited States application in e, Section 112, I acknowle patentability as defined in vailable between the filing	Code, Section 120 of any United States natter of each of the claims of this application the manner provided by the first paragraph edge the duty to disclose all information in Title 37, Code of Federal Regulations, is date of the prior application and the national				
Application Number	Filing Date	Status patented, pending, abandoned				
Application Number	Filing Date	Status patented, pending, abandoned				
part of this document) as my re	espective patent attorney prosecute this application	to (which is incorporated by reference and a is and patent agents, with full power of in and to transact all business in the Patent				
Send correspondence to	Send correspondence to <u>Seth Z. Kalson</u> , BLAKELY, SOKOLOFF, TAYLOR &					
ZAFMAN LLP, 12400 Wilshir telephone calls to Seth Z (Name	. Kalson of Attorney or Agent)	Los Angeles, California 90025 and direct , (408) 720-8300.				
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.						
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Title 37, Code of Federal Regulations, Section 1.56 <u>Duty to Disclose Information Material to Patentability</u>

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclosure information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclosure all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by \$\$1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct, The Office encourages applicants to carefully examine:
 - (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made or record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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